

## MELONI Exhibit C

## Robert Meloni

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**From:** Nicolas, Emilio [enicolas@jw.com]  
**Sent:** Thursday, June 12, 2008 2:35 PM  
**To:** Thomas McCaffrey  
**Cc:** Robert Meloni; Waks, Larry; Scardino, Daniel  
**Subject:** RE: Ritchie v. Gano - meet and confer

Dear Mr. McCaffrey:

I will take your response to mean that you oppose the motion to disqualify and, therefore, we have satisfied the meet-and-confer obligation. Is my assessment of the situation correct?

Please be advised that we may also file two motions ancillary to the motion to disqualify: (a) a motion for partial summary judgment on Plaintiff's fifth cause of action concerning the existence of a partnership relationship between Plaintiff and Defendant, which we believe is necessary to the Court's determination of disqualification for successive conflicts of interest; and (b) a motion to stay discovery while the issue of disqualification is pending. Do you oppose these ancillary motions, or would you like to discuss them during the 2:30 p.m. CST / 3:30 p.m. EST conference call?

If I do not receive a written response to this e-mail before 2:30 p.m. CST / 3:30 p.m. EST, then I will consider your lack of response to mean: (x) you oppose the motion to disqualify and its two ancillary motions; (y) the meet-and-confer obligation has been satisfied; and (z) there is no need for the 2:30 p.m. CST / 3:30 p.m. EST conference call.

Sincerely,

Emilio Nicolas

Emilio B. Nicolas, Esq.  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
Tel.: (512) 236-2304  
Fax: (512) 391-2127  
\*\*\*Admitted in Texas and New York

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**From:** Thomas McCaffrey [mailto:T.McCaffrey@M2Law.net]  
**Sent:** Wednesday, June 11, 2008 5:33 PM  
**To:** Nicolas, Emilio  
**Cc:** Robert Meloni  
**Subject:** RE: Ritchie v. Gano - meet and confer

If you are truly considering filing what we consider to be a frivolous motion, note that Judge Marrero's rules require a letter to the Court requesting a pre-motion conference. The rules do not require that counsel confer before you make your written request. Besides, we have made our position on that issue clear, and nothing in the past six months has changed that position.

**From:** Nicolas, Emilio [<mailto:enicolas@jw.com>]  
**Sent:** Wednesday, June 11, 2008 5:34 PM  
**To:** Thomas McCaffrey  
**Cc:** Robert Meloni  
**Subject:** RE: Ritchie v. Gano - meet and confer

It is a motion to disqualify.

Emilio B. Nicolas, Esq.  
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**From:** Thomas McCaffrey [<mailto:T.McCaffrey@M2Law.net>]  
**Sent:** Wednesday, June 11, 2008 4:07 PM  
**To:** Nicolas, Emilio  
**Cc:** Robert Meloni  
**Subject:** RE: Ritchie v. Gano - meet and confer

Robert is in Court. I am not sure if he is available tomorrow afternoon. I will have him contact you when he returns to the office. In the meantime, to make any conference that we may have more productive -- in light of the proposed imminent filing date -- what is the nature of the proposed motion?

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**From:** Nicolas, Emilio [<mailto:enicolas@jw.com>]  
**Sent:** Wednesday, June 11, 2008 4:43 PM  
**To:** Robert Meloni; Thomas McCaffrey  
**Cc:** Waks, Larry; Scardino, Daniel; Bales, Larry  
**Subject:** Ritchie v. Gano - meet and confer

Dear Counselors:

We want to schedule a conference call for tomorrow afternoon at 2:30 p.m. CST / 3:30 p.m. EST; we will initiate the call. Specifically, we want to discuss a motion that may be filed as early as Friday, June 13, 2008. Please contact us should you have any scheduling conflicts.

Sincerely,

Emilio Nicolas

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## MELONI Exhibit D

MELONI & McCAFFREY, P.C.

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ROBERT S. MELONI  
THOMAS P. McCAFFREY

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Writer's Email: [R.Meloni@m2law.net](mailto:R.Meloni@m2law.net)

November 30, 2007

**BY FEDERAL EXPRESS**

Honorable Victor Marrero  
United States District Court  
500 Pearl Street  
Room 660  
New York, New York 10007

**Re: Ritchie v. Gano, et al., 07 Civ. 7269 (VM)**

Dear Judge Marrero:

We represent Gordon Gano, who is named, individually and by his "d/b/a"s, as the defendant in the above referenced action. This letter is submitted in compliance with Rules II A and B of the Court's Individual Practices to request a pre-motion conference in the above referenced action at which Gano will seek permission to move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(c), and for leave to serve a brief that exceeds 25 pages in length.

**Basis for Motion**

Plaintiff has served a 28 page Complaint, with another 32 pages of exhibits, that includes 22 separate counts spread out over 119 paragraphs and which encompasses the parties' 26 plus year relationship as members of the band "Violent Femmes." At issue are the ownership rights of the parties in (i) the copyrights in the sound recordings and musical compositions created in the band's early years together, (ii) the trademark in the name "Violent Femmes", and (iii) a purported trademark in at least one of the sound recordings. Also at issue is the viability of a contract, that resolves virtually all of Plaintiff's purported claims, entered into by the parties on April 20, 2001, over six years before Plaintiff filed his Complaint ("2001 Agreement"). Last, but not the least important issue to be addressed, is the mutual, general release, executed by the parties as part of a second comprehensive agreement entered into on April 1, 2002 ("2002 Agreement"), which operates as a complete bar most of Plaintiff's claims. The 2002 Agreement, *inter alia*, also ratified

Hon. Victor Marrero  
November 30, 2007  
Page 2

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the relevant terms of the 2001 Agreement and barred Plaintiff from registering the trademark "Violent Femmes" without Gano's prior written consent.

Our proposed motion will establish numerous bases for the dismissal of this Complaint. In the first instance, the copyrights in the sound recordings for which Plaintiff seeks a declaration of co-ownership are owned by third parties who are not parties to this action, but are indispensable to a resolution of those claims. Thus, Plaintiff must join those parties as defendants, dismiss those claims, or have the case dismissed in its entirety under Fed. R. Civ. P. 19(b). The remaining copyright, trademark and state law claims are either irrevocably barred by the general release, the statute of limitations, laches, estoppel and/or for failing to state a cause of action as a matter of law. Finally, with the dismissal of the purported federal claims, the Court should exercise its discretion, deny supplemental jurisdiction and dismiss whatever purported state law claims, if any, that survive the aforementioned hurdles.

Our request for an exception to the 25 page limit for Defendant's moving brief is engendered by the multitude of counts, some including sub-parts, which Plaintiff has asserted and therefore must be addressed in the motion. We believe a ten page extension will allow us to fully brief the relevant issues.

We remain readily available for either a telephone or in-person conference at the Court's convenience.

Respectfully submitted,

MELONI & McCAFFREY, P.C.



By: \_\_\_\_\_

Robert S. Meloni

cc: Lawrence A. Waks, Esq. (*via* Email)

## MELONI Exhibit E



**ADDENDUM TO PROOF OF CLAIM OF VF2, INC. and VIOLENT FEMMES**

VF2, Inc. d/b/a Violent Femmes (“VF2”) entered into a recording agreement with Left Bank Records, Inc. d/b/a Beyond Music (“Left Bank”) pursuant to which VF2 granted to Left Bank 50% ownership in and certain exclusive administration rights to the master recordings comprising the albums “Viva Wisconsin” and “Freak Magnet” (the “Albums”). Left Bank materially breached its obligations to VF2 thereunder as follows:

1. Left Bank failed to properly render quarterly accountings on a timely basis for all periods covered under the agreement, from inception to the present.
2. Left Bank failed to pay VF2 royalties due and payable with respect to copies of the Albums made and/or distributed by Left Bank and/or its licensees from inception to date.

VF2 is presently unaware of the actual number of units sold from inception to date, and demands an accounting of all such sales in order to calculate the total amount of royalties due.

VF2 hereby reserves all of its rights and remedies with regard to Left Bank, its assignee and the assigned assets of Left Bank.

## MELONI Exhibit F

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## Attorney Detail

as of 07/03/2008

Registration Number: 1708080

### ROBERT S. MELONI

MELONI & MCCAFFREY, P.C.  
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Appellate Division

Department of

Admission: 1

Law School: NEW YORK LAW SCHOOL

Registration Status: Currently registered

Next Registration: Oct 2008

The Detail Report above contains information that has been provided by the attorney listed, with the exception of REGISTRATION STATUS, which is generated from the OCA database. Every effort is made to insure the information in the database is accurate and up-to-date.

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If the name of the attorney you are searching for does not appear, please try again with a different spelling. In addition, please be advised that attorneys listed in this database are listed by the name that corresponds to their name in the Appellate Division Admissions file. There are attorneys who currently use a name that differs from the name under which they were admitted. If you need additional information, please contact the NYS Office of Court Administration, Attorney Registration Unit at 212-428-2800.

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